

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

Georgia-Pacific Corporation

**FIRST AMENDMENT TO AGREED  
ORDER FOR INTERIM ACTION**  
NO. 00TCPNR-1418A-01

TO: Georgia-Pacific Corporation  
133 Peachtree Street N.E.  
P.O. Box 105605  
Atlanta, Georgia 30348-5605

**I.**  
**JURISDICTION**

This amendment to Agreed Order NO. 00TCPNR-1418 ("the original Order") is issued pursuant to the authority of RCW 70.105D.050(1). This amendment does not attempt to recite all of the provisions of the original Order. Provisions of the original Order not specifically addressed in this amendment remain in full force and effect.

## II.

### **FINDINGS OF FACT**

The Department of Ecology (hereinafter “ Ecology”) makes the following Findings of Fact in addition to those Findings set forth in the original Order, without admission of such facts by Georgia-Pacific Corporation (hereinafter “G-P”).

1. G-P is the partial owner of aquatic bedland property known as the G-P Log Pond, (hereinafter “ Log Pond “) which is located on G-P’s tissue mill at West Laurel Street, Bellingham, Washington, 98225. The Log Pond is a sub-unit of the Whatcom Waterway Site.

2. While the Port of Bellingham also currently owns a portion of the Log Pond, G-P has entered into a separate agreement with the Port of Bellingham that assigns authority for said properties to G-P, subject to certain conditions.

3. In order to protect human health and the environment and to prevent the release or threatened release of hazardous substances from the Log Pond, G-P previously conducted an integrated capping and habitat restoration action under the original Order. The capping action, completed in February 2001, eliminated or substantially reduced pathways for exposure to hazardous substances. Long-term monitoring of the capping action is ongoing, consistent with the requirements of the original Order.

### III.

#### **ECOLOGY DETERMINATIONS**

In addition to the determinations contained in the original Order, Ecology makes the following determinations:

1. G-P, Ecology, and other parties have been working in good faith and with due diligence to perform a demonstration test of a promising new *in situ* sediment treatment technology. The treatment demonstration is intended to provide information that will be used to evaluate the viability of this technology for use at sites in Puget Sound and elsewhere.

2. Based on the foregoing facts, Ecology believes the treatment demonstration project (hereinafter "Project") described in this Order is in the public interest.

### IV.

#### **WORK TO BE PERFORMED**

Based on the foregoing Facts and Determinations, Ecology and G-P agree that G-P will make available aquatic lands for performance of the Project. Through its existing regulatory authorities and prospective contractual agreements with the ElectroChemical Remediation Technologies (ECRT) provider, Weiss Associates, Ecology shall be responsible for ensuring that actions are conducted in accordance with the Model Toxics Control Act (MTCA; Chapter 173-340 WAC), and the Sediment Management Standards (SMS; Chapter 173-204 WAC), unless otherwise specifically provided for herein.

The Project will be carried out by Ecology with assistance from G-P, Washington Department of Transportation (WSDOT), Washington Department of Natural Resources

(DNR), U.S. Environmental Protection Agency (EPA), King County, and Weiss Associates. The Project will test ECRT, an *in situ* treatment technology for remediation of contaminated sediments. Ecology and the other parties listed above wish to evaluate ECRT as a treatment technology for use at various sites.

If the Project is successful, subsurface sediment concentrations of mercury, phenolic compounds, and other substances will be reduced. The Project consists of the following six major phases:

- Phase 1 - Mobilization (Pilot Test Planning, Design and Permitting);
- Phase 2 - Installation (Procurement and System Installation);
- Phase 3 - Operation (System Startup and Maintenance);
- Phase 4 - Monitoring (Sampling and Analysis);
- Phase 5 - Closure (System Shutdown and Demobilization); and
- Phase 6 - Reporting (Monthly and Final Reports).

Installation would likely occur in September, operation and monitoring would begin in October, and results of the demonstration would be available by spring 2002.

#### 1. Description of the Work.

The Log Pond site is largely owned by G-P, though the exact location being considered for the Project is currently leased to G-P from the Port of Bellingham.

Work to be performed by G-P is limited to providing access to the site for the Project. G-P is not responsible for any other work associated with the Project. The Project is an undertaking of Ecology and other state and federal agencies, and G-P shall not be held responsible for any adverse environmental effects caused by the installation, operation or removal of the treatment apparatus, including damage to the Log Pond cap. Likewise, any consent by the Port of Bellingham given to G-P is limited to providing access to the site for the Project. The Port of Bellingham is not responsible for any other work associated with the Project. Should the Log Pond cap previously

constructed by G-P require repairs as a result of the Project, G-P shall not be responsible for paying for such repairs. However, nothing in this amended Order shall be construed to indemnify G-P or Ecology for damages arising from negligent, reckless or intentional acts of their respective employees or agents.

## **V.**

### **TERMS AND CONDITIONS OF THE ORDER**

#### **1. Definitions.**

Unless otherwise specified, the definitions set forth in ch. 70.105D RCW and ch. 173-340 WAC shall control the meanings of the terms used in this amended Order.

#### **2. Public Notices.**

Pursuant to RCW 70.105D.030(2)(a), this amended Order shall be subject to concurrent public notice.

Ecology shall be responsible for providing such concurrent public notice and reserves the right to modify or withdraw any provisions of this amended Order should public comment disclose facts or considerations which indicate to Ecology that the amended Order is inadequate or improper in any respect.

#### **3. Remedial Action Costs.**

Ecology shall separately fund all costs incurred by Ecology pursuant to oversight of work described in this amended Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and order preparation, oversight and administration, along with costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2).

#### 4. Designated Project Coordinators.

The project coordinator for Ecology is:

Ms. Lucille T. McInerney  
Washington Department of Ecology, Northwest Regional Office  
3190 - 160th Avenue SE  
Bellevue, WA 98008-5452  
phone: (425) 649-7272  
e-mail: [lpeb461@ecy.wa.gov](mailto:lpeb461@ecy.wa.gov)

The project coordinator for G-P is:

Mr. R. J. "Chip" Hilarides  
Senior Environmental Engineer  
Georgia-Pacific West, Inc.  
P.O. Box 1236  
Bellingham, WA 98227-1236  
phone: (360) 647-5695  
e-mail: [rjhilari@gapac.com](mailto:rjhilari@gapac.com)

The project coordinator(s) shall be responsible for overseeing the implementation of this amended Order. To the maximum extent possible, communications between Ecology and G-P, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this amended Order, shall be directed through the project coordinator(s). Should Ecology or G-P change project coordinator(s), written notification shall be provided to Ecology or G-P at least ten (10) calendar days prior to the change.

#### 5. Public Participation.

Public Participation shall adhere to the Whatcom Waterway Site Public Participation Plan dated February 1996. Ecology shall maintain the responsibility for public participation and G-P shall help coordinate and implement public participation.

6. Dispute Resolution.

G-P may request Ecology to resolve disputes that may arise during the implementation of this amended Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this amended Order. Ecology resolution of the dispute shall be binding and final. G-P is not relieved of any requirement of this amended Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the amended Order unless otherwise provided by Ecology in writing.

7. Reservation of Rights/No Settlement.

This amended Agreed Order is not a settlement under ch. 70.105D RCW. Ecology's signature on this amended Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, take additional enforcement actions against G-P to require those remedial actions required by this amended Agreed Order, provided G-P complies with this amended Agreed Order.

In the event that the Project is creating or has the potential to create a danger to the health or welfare of the people in the surrounding area or to the environment, Ecology shall stop further implementation of this amended Order for such period of time as needed to abate the danger.

8. Transference of Property.

No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Log Pond shall be consummated by

G-P without provision for continued implementation of all requirements of this amended Order and implementation of any remedial actions found to be necessary as a result of this amended Order.

Prior to transfer of any legal or equitable interest G-P may have in the Log Pond or any portions thereof, G-P shall serve a copy of this amended Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, G-P shall notify Ecology of the contemplated transfer.

## **VI.**

### **SATISFACTION OF THIS ORDER**

The provisions of this amended Order relating to the Project shall be deemed satisfied upon completion or termination of the Project described herein, as directed by Ecology. All other provisions of the Order shall remain in full force and effect.

## **VII.**

### **ENFORCEMENT**

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
  - A. The Attorney General may bring an action to enforce this Order in a state or federal court.
  - B. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under Section 6 of ch. 70.105D RCW.

Effective date of this Order: \_\_\_\_\_

GEORGIA-PACIFIC  
CORPORATION

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

By \_\_\_\_\_

James W. Cunningham  
General Manager  
Georgia-Pacific West, Inc.

By \_\_\_\_\_

Steven M. Alexander  
Section Manager  
Toxics Cleanup Program  
Regional Manager -Northwest  
Regional Office

Date \_\_\_\_\_

Date \_\_\_\_\_